

§ 1640.9

filed complaint or charge in which the complainant has elected section 504 processing, alleged discrimination in both employment and in other practices or services of the respondent, or alleged a pattern or practice of employment discrimination.

§ 1640.9 Processing of complaints or charges of employment discrimination filed with a designated agency and either a section 504 agency, the EEOC, or both.

(a) *Designated agency processing.* A designated agency shall investigate and process a complaint that has been filed with it and with the EEOC, a section 504 agency, or both, when either of the following conditions is met:

(1) The designated agency determines that it has jurisdiction over the complaint under title II and that neither the EEOC nor a section 504 agency (other than the designated agency, if the designated agency is also a section 504 agency) has jurisdiction over the complaint; or

(2) The designated agency determines that it has jurisdiction over the complaint under section 504 and the complaint meets the requirements for processing by a section 504 agency set forth in § 1640.8(a)(2).

(b) *Referral by a designated agency.* A designated agency that has jurisdiction over a complaint solely under title II (and not under section 504) shall forward a complaint that has been filed with it and with the EEOC, a section 504 agency, or both, to either the EEOC or to a section 504 agency, as follows:

(1) If the designated agency determines that the EEOC is the sole agency, other than the designated agency, with jurisdiction over the complaint, the designated agency shall forward the complaint to the EEOC for processing under title I; or

(2) If the designated agency determines that the section 504 agency is the sole agency, other than the designated agency, with jurisdiction over the complaint, the designated agency shall forward the complaint to the section 504 agency for processing under section 504; or

(3) If the designated agency determines that both the EEOC and a section 504 agency have jurisdiction over the complaint, the designated agency

29 CFR Ch. XIV (7–1–00 Edition)

shall forward the complaint to the EEOC if it determines that the complaint solely alleges employment discrimination against an individual, or it shall forward the complaint to the section 504 agency if it determines that the complaint meets the requirements for processing by a section 504 agency set out in § 1640.8(a)(2)(i) or (a)(2)(ii).

§ 1640.10 Section 504 agency review of deferred complaints.

(a) *Deferral by the section 504 agency.* When a section 504 agency refers a complaint to the EEOC pursuant to § 1640.6(c)(2) or when it is determined that, as between the EEOC and a section 504 agency, the EEOC is the agency that shall process a dual-filed complaint or charge under § 1640.8(a)(1) or § 1640.8(e), the section 504 agency shall defer further action until:

(1) The EEOC issues a no cause finding and a notice of right-to-sue pursuant to 29 CFR 1601.19; or

(2) The EEOC enters into a conciliation agreement; or

(3) The EEOC issues a cause finding and a notice of failure of conciliation pursuant to 29 CFR 1601.21, and:

(i) If the recipient is not a government, governmental agency, or political subdivision, the EEOC completes enforcement proceedings or issues a notice of right-to-sue in accordance with 29 CFR 1601.28; or

(ii) If the recipient is a government, governmental agency, or political subdivision, the EEOC refers the charge to the Civil Rights Division in accordance with 29 CFR 1601.29, and the Civil Rights Division completes enforcement proceedings or issues a notice of right-to-sue in accordance with 29 CFR 1601.28(d); or

(4) The EEOC or, when a case has been referred pursuant to 29 CFR 1601.29, the Civil Rights Division, otherwise resolves the charge.

(b) *Notification of the deferring agency.* The EEOC or the Civil Rights Division, as appropriate, shall notify the agency that has deferred processing of the charge upon resolution of any dual-filed complaint or charge.

(c) *Agency review.* After receipt of notification that the EEOC or the Civil Rights Division, as appropriate, has resolved the complaint or charge, the